

Notice of Allowability

Application No.

10/782,536

Examiner

Jerrold Johnson

Applicant(s)

SHANNON, DANIEL P.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to Amendment 08 September 2006.
2. ☒ The allowed claim(s) is/are 11-16 and 21-34.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

The application has been amended as follows:

Claim 11, line 7, "ends" and "end" have been replaced with --end edges-- and --end edge-- respectively.

Claim 11, line 9, "ends" has been replaced with --end edges--.

Claim 22, line 7, "ends" and "end" have been replaced with --end edges-- and --end edge-- respectively.

Claim 22, line 9, "ends" has been replaced with --end edges--.

The following is an examiner's statement of reasons for allowance:

The claims are drawn to the embodiment of the present invention shown in Figs. 8 and 9.

With respect to claim 11, the most relevant prior art is that of Xiong et al. US 6,550,223. Xiong in Col. 4 describes embodiments that are not shown in the drawings.

A first embodiment is one where there is no duct defined by sheets of tubular fusible material (such as is shown by element 8 in Fig. 1). Instead of a duct formed of sheets 8, the "fusible duct" is a fusible piece of open cell foam.

A second embodiment appears to comprise a duct defined by sheets of fusible material (such as is shown at element 8 in Fig. 1). Within this fusible duct is disposed a piece of fusible open cell foam.

It is the understanding of the Examiner that the open cell foam in each of these two embodiments would inherently possess fluid absorbing characteristics. Again, neither of these two embodiments are shown in the drawings.

It is imperative that one appreciates that the materials (the aforementioned sheets 8 and open cell foam (that is not shown in any drawing)) are both *purposely designed to be fusible*. Because of the intentional functionality these two materials provide (that being the ability of these two materials to be fused to the panels of the bag during heat sealing), there would be NO REASON to modify this reference by moving the open cell foam material (the material that inherently has a fluid absorbing

characteristic) inward of the bag opening, as is required by claim 11. Such a modification would in fact be contrary to the spirit of the invention of Xiong.

Xiong in col. 4, lines 52-54 states that in "the heat sealing process, the network is blocked by collapse and fusion of the material in the region of the heat seal." And, in col. 4, lines 23-24 Xiong states that the fusible duct material "must be able to form part of the package heat seal."

With respect to claims 22 and 28, both of these claims include the strip of textured or shaped material 112 in Fig. 8 of the present invention in addition to the pad of fluid absorbing material 160.

With respect to these claims, Xiong is again the most relevant reference.

Xiong again discloses but does not show an embodiment that appears to comprise a duct defined by sheets of fusible material (such as is shown at element 8 in Fig. 1), and within this fusible material is disposed a piece of fusible open cell foam.

The claims 22 and 28 do not read on this embodiment as the strip of material as is claimed is required to be *shaped or textured* so as to product a necessary structural relationship with the panels of the bag (the resistance of fluid tight closure by the establishment of fluid passages). There is no reason to shape or texture the outer surface of the sheets 8 forming the duct of Xiong in this way, as the fluid movement under vacuum is not between the sheets 8 that form the duct and the panels of the bag, but is instead *within* the duct (and within the open cell foam disposed within the duct).

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Additionally, the placement of the pad of fluid absorbing material is claimed to be between the product holding portion of the bag and the mouth of the bag. For the reasons set forth with respect to claim 11, there would be no reason to modify the reference of Xiong by moving the open cell foam to this position inward of the mouth of the bag.

Accordingly, the claims define over Xiong et al. US 6,550,223 and are allowed.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jerrold Johnson whose telephone number is 571-272-7141. The examiner can normally be reached on 9:30 to 6:00 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on 571-272-4562. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



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